

REMARKS

The Office has required restriction in the present application as follows:

- Group I: Claims 1 and 4-32, drawn to electrolytes and batteries having specific components as an organic solvent; and
- Group II: Claims 2 and 3, drawn to a secondary battery having a casing and specific charge/discharge properties.

If Group I is elected, the Examiner is requiring the election of a single disclosed specie of solvent from:

- (i) ethylene sulfite,
- (ii) phenylethylene carbonate,
- (iii) 2-methyl furan,
- (iv) furan,
- (v) thiophene,
- (vi) catechol carbonate, and
- (vii) vinylethylene carbonate.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has not provided adequate reasons and/or examples to support a conclusion of patentable distinctness between the identified groups.

The Office has characterized Groups I and II as "unrelated" inventions. However, Applicants note that the MPEP describes unrelated inventions as, for example, "an article of apparel such as a shoe, and a locomotive bearing", or "a process of painting a house and a process of boring a well." MPEP 806.04(A). Thus, unrelated inventions, as defined by the MPEP, are inventions which are directed to *completely* different technical fields, and have no reasonable relationship with each other. In contrast, the invention of Group I is drawn to

“electrolytes and batteries having specific components as an organic solvent” and the invention of Group II is drawn “a secondary battery having a casing and having specific charge/discharge properties”. Applicants make no statement regarding the patentable distinctness of the inventions of Groups I and II, but note that both groups are classified in class 429 and would both reasonably be searched in the same technical field. Thus the inventions of Groups I and II of the present invention do not meet the standard of “unrelatedness” of MPEP 806.04(A), discussed above, nor do they present a burden on the Office. Accordingly, Applicants respectfully submit that the Restriction is improper, and request that it be withdrawn.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed. MPEP §808.01(a). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants respectfully submit that the restriction is improper, and Applicants’ election of species is for examination purposes only.

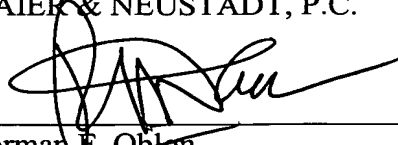
Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Therefore, for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Restriction and Election of Species. Withdrawal of the Requirement for Restriction and Election of Species is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice of such action is earnestly solicited

Respectfully submitted,

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